

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 24, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROBERT LARAMIE GOMES,

Plaintiff,

v.

COUNTY OF YAKIMA, SANDRA
BESS, KRISTINA TREVINO,
YAKIMA COUNTY JAIL, YCDOC,
LEGAL RECORDS DIVISION, and
MENTAL HEALTH DEPARTMENT,

Defendants.

No. 1:19-cv-03076-SMJ

**ORDER DENYING MOTIONS
FOR RECONSIDERATION**

Before the Court, without oral argument, are Plaintiff's two Motions for Reconsideration, ECF Nos. 47 & 48. Having reviewed the filings and the record in this matter, the Court is fully informed and denies the motions.

On August 25, 2020, the Court dismissed this action for failure to state a claim upon which relief may be granted and entered judgment. ECF Nos. 40, 41. On December 17, 2020, the Court denied Plaintiff's request to reopen this case, finding that he had failed to show good cause for his failure to prosecute this action and, contrary to Plaintiff's assertions, he had failed to state a claim upon which relief may be granted. ECF No. 46.

1 Plaintiff has now twice asked the Court to reconsider the decision not to
2 reopen this case. ECF Nos. 47, 48. He contends that because he contracted COVID-
3 19, became homeless following his release from jail in July 2020, and tried to gain
4 admission to a treatment facility during the COVID-19 pandemic, the Court should
5 allow him to reopen this case. ECF No. 48 at 1.

6 On July 22, 2020, the Court dismissed Plaintiff's First Amended Complaint
7 with leave to amend, ECF No. 39. A copy of this Order was mailed to Plaintiff at
8 the address he provided and was not returned as undeliverable. Plaintiff admits that,
9 after his release from jail in early July 2020, he received notice of documents sent
10 to the address he provided for at least a month. ECF No. 48 at 1.

11 A motion for reconsideration may be reviewed under either Federal Rule of
12 Civil Procedure 59(e) (motion to alter or amend a judgment) or 60(b) (relief from
13 judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). "A
14 district court may properly reconsider its decision if it '(1) is presented with newly
15 discovered evidence, (2) committed clear error or the initial decision was manifestly
16 unjust, or (3) if there is an intervening change in controlling law.'" *Smith v. Clark*
17 *Cty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir. 2013) (quoting *Sch. Dist. No. 1J*, 5 F.3d
18 at 1263). "There may also be other, highly unusual, circumstances warranting
19 reconsideration." *Sch. Dist. No. 1J*, 5 F.3d at 1263.

20 Petitioner has not presented newly discovered evidence, demonstrated that

1 the Court committed clear error, or shown that either the Order dismissing this
2 action or the Order denying his request to reopen the cases was manifestly unjust.
3 There has also been no intervening change in controlling law, and Plaintiff pleads
4 no other circumstances warranting reconsideration. *Id.* Accordingly, Plaintiff's
5 Motions for Reconsideration, ECF Nos. 47 & 48, are denied.

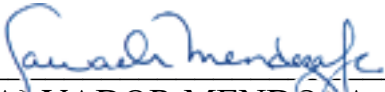
6 Accordingly, **IT IS HEREBY ORDERED:**

7 **1.** Plaintiff's Motions for Reconsideration, **ECF Nos. 47 & 48**, are
8 **DENIED.**

9 **2.** The file shall **REMAIN** closed.

10 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
11 provide a copy to *pro se* Plaintiff.

12 **DATED** this 24th day of February 2021.

13
14 
15 SALVADOR MENDOZA, JR.
United States District Judge